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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------|-------------|----------------------|---------------------|------------------|
| 09/889,745 | 10/15/2001 | Anthony John Peach | GH-01383 | 8923 |
| 23117 | 7590 | 05/04/2005 | EXAMINER | |
| NIXON & VANDERHYE, PC | | | SINGH, SUNIL | |
| 1100 N GLEBE ROAD | | | ART UNIT | |
| 8TH FLOOR | | | PAPER NUMBER | |
| ARLINGTON, VA 22201-4714 | | | 3673 | |

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 16-18, 20,24,26,32-33,37-40,46-47,49, 50-54, 83-86, drawn to rock boring device.

Group II, claim(s) 55-82, drawn to a disc cutter.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I is directed to a rock boring device having boom structure and oscillating and nutating disc cutter. Group II is directed to a disc cutter having a reaction mass being relatively large compared to the disc cutter and the cutter oscillating and nutating with respect to said mass.

2. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species I directed to a rock boring device having an oscillating and nutating disc cutter.

Species II directed to a rock boring device having an oscillating disc cutter.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply

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must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

3. The claims are deemed to correspond to the species listed above in the following manner:

Species I drawn to claims 16-18, 20,24,26,32-33,37-40,46-47,49, 50-54.

Species II drawn to claims 83-86.

The following claim(s) are generic: no claims are generic.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Species I requires an oscillating and nutating disc cutter and Species II requires an oscillating disc cutter.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh
Primary Examiner
Art Unit 3673



SS

4/30/05

SUNIL SINGH
PRIMARY PATENT EXAMINER